

CHAPTER 46
UNLAWFUL DISCRIMINATORY PRACTICES RELATING TO
SEXUAL ORIENTATION AND GENDER IDENTITY AND EXPRESSION

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ARTICLE I.
GENERAL.

SEC. 46-1. DECLARATION OF POLICY.

(a) It is the policy of the city of Dallas to bring about through fair, orderly, and lawful procedures the opportunity for every person to obtain employment, access to all places of public accommodation, and housing, without regard to sexual orientation or gender identity and expression. The city of Dallas is proud of the diversity of its employees, as reflected in Section 34-35 of this Code, and is proud of the diversity of its citizens. The city strongly encourages all entities within the city, including those who are excepted from the requirements of this chapter, to recognize the rights of every individual to work and earn wages through gainful employment, to obtain and enjoy goods, services, facilities, privileges, advantages, and accommodations in all places of public accommodation, and to obtain housing.

(b) The denial or deprivation of these rights because of a person's actual or perceived sexual orientation or gender identity and expression is detrimental to the health, safety, and welfare of the citizens of Dallas and is within the power and responsibility of the city to prevent. (Ord. Nos. 24927; [29942](#))

SEC. 46-2. ADMINISTRATION.

The city manager is responsible for administering and implementing this chapter. The city manager may delegate the authority to receive, investigate, and conciliate complaints under this chapter to an administrator or other city employees. (Ord. 24927)

SEC. 46-3. INTERPRETATION AND EFFECT.

This chapter does not create a private cause of action, nor does it create any right or remedy that is the same or substantially equivalent to the remedies provided under federal or state law. (Ord. 24927)

SEC. 46-4. DEFINITIONS.

(a) In this chapter:

(1) ADMINISTRATOR means the person designated by the city manager to receive, investigate, and conciliate complaints under this chapter and includes the administrator's designated representatives.

(2) CITY means the city of Dallas, Texas.

(3) COMPLAINANT means a person, including the administrator, who files a complaint under this chapter.

(4) CONCILIATION means the attempted resolution of issues raised in a complaint filed under this chapter, or raised in the investigation of the complaint, through informal negotiations involving the complainant, the respondent, and the administrator.

(5) CONCILIATION AGREEMENT means a written agreement setting forth the resolution of the issues in a conciliation.

(6) DISCRIMINATION means any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial, or other differentiation in the treatment of a person or persons because of sexual orientation or gender identity and expression.

(7) DWELLING means:

(A) any building, structure, or part of a building or structure that is occupied as, or designed and intended for occupancy as, a residence for one or more persons; and

(B) any vacant land that is offered for sale or lease for the construction or location of any building, structure, or part of a building or structure designed and intended for occupancy as a residence for one or more persons.

(8) EMPLOYEE means any individual employed by an employer. The term does not include an elected official.

(9) EMPLOYER means any person who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and includes any agent of such a person. The term does not include a bona fide private membership club (other than a labor organization) that is exempt from taxation under Section 501(c) of the Internal Revenue Code of 1954, as amended.

(10) EMPLOYMENT AGENCY means any person, and any agent of a person, who regularly undertakes, with or without compensation, to procure:

(A) employees for an employer; or

(B) opportunities for a person to work for an employer.

(11) GENDER IDENTITY AND EXPRESSION means "gender identity and expression" as defined in Chapter 34 of the Dallas City Code.

(12) LABOR ORGANIZATION means a labor organization and any of its agents, and includes:

(A) any organization, agency, or employee representation committee, group, association, or plan in which employees participate and that exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment; and

(B) any conference, general committee, joint or system board, or joint council so engaged that and Gender Identity and Expression is subordinate to a national or international labor organization.

(13) PERSON means one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, fiduciaries, and other legal entities.

(14) PLACE OF PUBLIC ACCOMMODATION means any of the following establishments if they are open to the general public and, for compensation, offer any product, service, or facility to the general public:

(A) Any inn, hotel, motel, or other establishment that provides lodging to transient guests, other than an establishment:

(i) located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as a residence; or

(ii) in which the majority of the occupants are permanent residents and maintain their fixed place of domicile in the establishment.

(B) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of a retail establishment or gasoline station.

(C) Any motion picture house, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment.

(D) Any bar, tavern, pub, drinking establishment, or facility where alcoholic beverages are served.

(E) Any retail or wholesale establishment selling any kind of goods or services.

(F) Any public conveyance, including stations and terminals.

(15) RELIGION means all aspects of religious observance and practice, as well as belief.

(16) RELIGIOUS ORGANIZATION means:

(A) a religious corporation, association, or society; or

(B) a school, college, university, or other educational institution or institution of learning, if:

(i) the institution is, in whole or in substantial part, controlled, managed, owned, or supported by a religion, religious corporation, association, or society; or

(ii) the curriculum of the institution is directed toward the propagation of a religion.

(17) RENT means to lease, sublease, let, or otherwise grant for a consideration the right to occupy premises not owned by the occupant.

(18) RESPONDENT means a person identified in a complaint as having committed an unlawful practice under this chapter.

(19) SEXUAL ORIENTATION means "sexual orientation" as defined in Chapter 34 of the Dallas City Code.

(20) UNLAWFUL PRACTICE means a discriminatory act or practice relating to employment, public accommodations, or housing that is prohibited under this chapter.

(b) For purposes of this chapter, an individual's gender is determined solely by that individual's own perception of their gender. (Ord. Nos. 24927; [29942](#))

SEC. 46-5. EXCEPTIONS.

This chapter does not apply to:

(1) a religious organization;

(2) the United States government, any of its departments or agencies, or any corporation wholly owned by it; or

(3) the government of the State of Texas or any of its departments, agencies, or political subdivisions. (Ord. 24927)

ARTICLE II.

UNLAWFUL DISCRIMINATORY PRACTICES.

SEC. 46-6. UNLAWFUL EMPLOYMENT PRACTICES.

(a) Employers. It is unlawful for an employer, because of sexual orientation or gender identity and expression:

(1) to fail or refuse to hire, or to discharge, any person;

(2) to discriminate against any person with respect to compensation, terms, conditions, or privileges of employment; or

(3) to limit, segregate, or classify employees or applicants for employment in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee.

(b) Employment agencies. It is unlawful for an employment agency:

(1) to fail or refuse to refer for employment, or to otherwise discriminate against, any person because of sexual orientation or gender identity and expression; or

(2) to classify or refer for employment any person on the basis of sexual orientation or gender identity and expression.

(c) Labor organizations. It is unlawful for a labor organization:

(1) to exclude or expel from its membership, or to otherwise discriminate against, any person because of sexual orientation or gender identity and expression;

(2) to fail or refuse to refer for employment any person because of sexual orientation or gender identity and expression;

(3) to limit, segregate, or classify its members or applicants for membership in any way that would deprive or tend to deprive a person of employment or employment opportunities, or that would otherwise adversely affect a person's status as an employee or as an applicant for employment; or

(4) to cause or attempt to cause an employer to discriminate against a person in violation of this chapter.

(d) Training programs. It is unlawful for an employer, a labor organization, or a joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to discriminate against any person because of sexual orientation or gender identity and expression in the admission to, or employment in, any program established to provide apprenticeship or other training.

(e) Notices and advertisements.

(1) It is unlawful for an employer to print or publish, or cause to be printed or published, any notice or advertisement relating to employment by the employer that indicates any preference, limitation, specification, or discrimination based on sexual orientation or gender identity and expression.

(2) It is unlawful for an employment agency to print or publish, or cause to be printed or published, any notice or advertisement relating to membership in or any classification or referral for employment by the employment agency that indicates any preference, limitation, specification, or discrimination based on sexual orientation or gender identity and expression.

(3) It is unlawful for a joint labor-management committee controlling apprenticeship or other training or retraining (including on-the-job training programs) to print or publish, or cause to be printed or published, any notice or advertisement relating to admission to, or employment in, any program established to provide apprenticeship or other training by the joint labor-management committee that indicates any preference, limitation, specification, or discrimination based on sexual orientation or gender identity and expression.

(4) Nothing in this subsection prohibits a notice or advertisement from indicating a preference, limitation, specification, or discrimination based on sexual orientation or gender identity and expression when sexual orientation or gender identity and expression is a bona fide occupational qualification for employment.

(f) Exception. This section does not apply to, and does not require, the provision of employee benefits to a person for the benefit of the person's domestic partner. (Ord. Nos. 24927; [29942](#).)

SEC. 46-6.1. UNLAWFUL PUBLIC ACCOMMODATION PRACTICES.

(a) Discrimination in public accommodations. It is unlawful for any owner, proprietor, or lessee of any place of public

accommodation, because of sexual orientation or gender identity and expression:

- (1) to directly or indirectly exclude, segregate, limit, refuse, or deny to any person any of the accommodations, advantages, facilities, benefits, privileges, services, or goods offered to the general public at that place; or
 - (2) to circulate, issue, display, post, mail, or otherwise publish a statement, advertisement, or sign indicating that:
 - (A) a person will be denied accommodations, advantages, facilities, benefits, privileges, services, or goods at that place; or
 - (B) the patronage or presence of a person at that place is objectionable, unwelcome, unacceptable, undesirable, or unsolicited.
- (b) Defenses. It is a defense to prosecution under this section that the refusal to admit a person to a place of public accommodation or the expulsion of a person from a place of public accommodation was required by law.
- (c) Exceptions. This section does not apply to:

- (1) a hotel, restaurant, bar, lounge, nightclub, cabaret, theater, bowling alley, skating rink, or golf course when the accommodations, advantages, facilities, and services are restricted to members of a club and their guests; or
- (2) any bona fide social, fraternal, educational, civic, political, or religious organization, when the profits of the accommodations, advantages, facilities, and services (above reasonable and necessary expenses) are solely for the benefit of the organization. (Ord. Nos. 24927; [29942](#))

SEC. 46-7. UNLAWFUL HOUSING PRACTICES.

- (a) Discrimination in the sale or rental of housing.
- (1) It is unlawful for a person, because of sexual orientation or gender identity and expression:
 - (A) to refuse to negotiate with a person for the sale or rental of a dwelling or to otherwise deny or make unavailable a dwelling to a person;
 - (B) to refuse to sell or rent a dwelling to a person who has made a bona fide offer for the dwelling;
 - (C) to discriminate against a person in the terms, conditions, or privileges of the sale or rental of a dwelling or in the provision of services or facilities in connection with the sale or rental of a dwelling; or
 - (D) to represent to a person that a dwelling is not available for inspection, sale, or rental when the dwelling is in fact so available.
 - (2) It is unlawful for a person:
 - (A) to make, print, or publish, or cause to be made, printed, or published, any notice, statement, or advertisement relating to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on sexual orientation or gender identity and expression or an intention to make any such preference, limitation, or discrimination; or
 - (B) for profit, to induce or attempt to induce a person to sell or rent, or to not sell or rent, a dwelling by representations that a person or persons of a particular sexual orientation or with a particular gender identity or expression are present in or may enter into the neighborhood.
- (b) Discrimination in housing financing. It is unlawful for any bank, building and loan association, insurance company, or other person whose business, in whole or in part, consists of the making of real estate loans to, on the basis of sexual orientation or gender identity and expression:
- (1) deny any person a loan or other financial assistance for the purchase, construction, improvement, repair, or maintenance of a dwelling; or
 - (2) discriminate against any person in the fixing of the amount, interest rate, duration, or other terms or conditions of a loan or other financial assistance for the purchase, construction, improvement, repair, or maintenance of a dwelling.
- (c) Discrimination in providing brokerage services. It is unlawful for any person, because of sexual orientation or gender identity and expression:

(1) to deny another person access to, membership in, or participation in any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings; or

(2) to discriminate against another person in the terms or conditions of access to, membership in, or participation in any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings.

(d) Exceptions.

(1) This section does not apply to the following:

(A) The sale or rental of any single-family dwelling, if the owner:

(i) does not own an interest in or title to more than three single-family dwellings at one time, regardless of whether the dwellings are located inside or outside of the city;

(ii) has resided in the dwelling within the 24-month period preceding the sale or rental of the dwelling; and

(iii) does not use the services or facilities of any real estate broker, agent, or salesman, or of any other person in the business of selling or renting dwellings, in connection with the sale or rental of the dwelling.

(B) The rental of a dwelling that is occupied or intended to be occupied by no more than four families living independently of each other, when the owner actually maintains and occupies part of the dwelling as a residence.

(C) The rental of a dwelling by a private organization only to its members, when the dwelling is owned, controlled, or managed by the organization for other than a commercial purpose and the rental of the dwelling is incidental to the organization's primary purpose.

(e) Nothing in this section prohibits conduct against a person because of the person's conviction by a court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance under state or federal law. (Ord. Nos. 24927; [29942](#))

SEC. 46-8. UNLAWFUL INTIMIDATION, RETALIATION, AND COERCION.

It is unlawful for any person to discriminate against, harass, threaten, harm, damage, or otherwise penalize another person for opposing an unlawful practice, for filing a complaint, or for testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under this chapter. (Ord. 24927)

ARTICLE III. ENFORCEMENT.

SEC. 46-9. PROCEDURES FOR FILING COMPLAINTS.

(a) Any person who claims to have been injured by an unlawful practice may file a complaint with the administrator. A complaint may also be filed by the administrator if the administrator has reasonable cause to believe that a person has committed an unlawful practice. A complaint must be filed within 180 calendar days after an alleged unlawful practice has occurred.

(b) A complaint must be in writing on a form provided by the administrator, made under oath or affirmation, and contain the following information:

(1) Name and address of the respondent.

(2) Name, address, and signature of the complainant.

(3) Date of occurrence of the alleged unlawful practice.

(4) Statement of the facts upon which the allegation of an unlawful practice are based.

(c) Promptly after the filing of a complaint, the administrator shall, in writing:

(1) notify the respondent named in the complaint that a complaint alleging the commission of an unlawful practice has been filed against the respondent;

(2) furnish a copy of the complaint to the respondent; and

(3) advise the respondent of the procedural rights and obligations of the respondent, including the right to file a written, signed, and verified informal answer to the complaint within 15 days after service of notice of the complaint.

(d) Not later than the 15th day after service of the notice and copy of the complaint, a respondent may file an answer to the complaint. The answer must be in writing, made under oath or affirmation, and contain the following information:

(1) Name, address, telephone number, and signature of the respondent or the respondent's attorney, if any.

(2) Concise statement of facts in response to the allegations in the complaint, including facts of any defense or exception. (Ord. 24927)

SEC. 46-10. INVESTIGATION.

(a) Upon the filing of a complaint, the administrator shall commence a prompt and full investigation to determine the facts behind the complaint and whether there is reasonable cause to believe an unlawful practice was committed, except that no investigation may commence if, after personally reviewing the allegations with the complainant, the administrator determines that the complaint does not come within the scope of this chapter. Within 15 days after determining that a particular complaint does not come within the scope of this chapter, the administrator shall give the complainant a clear and concise explanation of the reasons why it does not and take no further action on the complaint.

(b) In connection with any investigation of a complaint filed under this chapter, the administrator shall seek the voluntary cooperation of any person to:

(1) obtain access to premises, records, documents, individuals, and any other possible source of information;

(2) examine, record, and copy necessary materials; and

(3) take and record testimony or statements of any person reasonably necessary for the furtherance of the investigation.

(c) The administrator may, at the administrator's discretion or at the request of the respondent or the complainant, request the city council to issue a subpoena or subpoena duces tecum to compel the attendance of a witness or the production of relevant materials or documents pursuant to its power under Chapter III, Section 12 of the city charter. Violation of a subpoena issued under this subsection is punishable by the same fines and penalties for contempt as are authorized before the county court. (Ord. Nos. 24927; [29942](#))

SEC. 46-11. CONCILIATION.

(a) During or after the investigation, but subsequent to the mailing of the notice of the complaint to the respondent, the administrator shall, if it appears that an unlawful practice has occurred, attempt to conciliate the complaint. In conciliating a complaint, the administrator shall try to achieve a just resolution and obtain assurances that the respondent will satisfactorily remedy any violation of the complainant's rights and take action to ensure the elimination of both present and future unlawful practices in compliance with this chapter. Nothing said or done during the course of conciliation may be made public or be used as evidence in a subsequent proceeding under this chapter, without the written consent of all persons concerned.

(b) A conciliation agreement executed under this section must be in writing in a form approved by the city attorney and must be signed and verified by the respondent and the complainant, subject to approval of the administrator who shall indicate approval by signing the agreement. A conciliation agreement is executed upon its signing and verification by all parties to the agreement.

(c) A party to an executed conciliation agreement may not be prosecuted in municipal court for the unlawful practice identified in the agreement unless the administrator determines that the agreement has been violated and notifies the city attorney in writing of the violation. (Ord. 24927)

SEC. 46-12. DISPOSITION OF A COMPLAINT.

(a) If, upon completion of an investigation of a complaint, the administrator determines that an unlawful practice has occurred and is unable to secure an acceptable conciliation agreement from the respondent, then the administrator shall refer the case to the city attorney for prosecution in municipal court. The administrator shall refer the entire file to the city attorney, who shall, after such referral, determine whether to proceed with prosecution of the complaint in municipal court.

(b) If the city attorney determines that reasonable cause exists that an unlawful practice occurred and the facts are sufficient to warrant the initiation of a criminal action in municipal court, then the city attorney shall notify the administrator, who shall then provide written notification to the complainant and the respondent that the complaint will be prosecuted in municipal court. If the city attorney determines that there is no reasonable cause that an unlawful practice occurred or that the facts are insufficient to warrant the initiation of a criminal action in municipal court, the city attorney shall notify the administrator, who shall then dismiss the complaint.

(c) The administrator may dismiss a complaint:

(1) during the investigation and prior to referral to the city attorney when the administrator determines that:

(A) the complaint was not filed within the required time period;

(B) the location of the alleged unlawful practice is not within the city's jurisdiction;

(C) the alleged unlawful practice is not a violation of this chapter;

(D) the complainant refuses to cooperate with the administrator in the investigation of the complaint or enforcement of an executed conciliation agreement;

(E) the complainant cannot be located after the administrator has performed a reasonable search; or

(F) a conciliation agreement has been executed by the complainant and respondent; or

(2) after receipt of a statement from the city attorney that there is no reasonable cause that an unlawful practice occurred or that the facts are insufficient to warrant the initiation of a criminal action in municipal court.

(d) The administrator shall, in writing, notify the complainant and the respondent of the dismissal of a complaint and include a statement of the reasons for the dismissal. (Ord. 24927)

SEC. 46-13. OFFENSES AND PENALTIES.

A person commits an offense if he intentionally or knowingly violates a provision of this chapter or if he intentionally or knowingly obstructs or prevents compliance with this chapter. An offense committed under this chapter is punishable by a fine of not less than \$200 or more than \$500. (Ord. 24927)